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The Policyholder Review 2026

War and Political Risk

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Hebe Swain

With global conflicts at historically high levels and political instability driven by an unpredictable US administration, War and Political Risks coverage is more relevant than ever. The factual circumstances in which claims arise are often by their very nature sensitive and contentious, creating fertile ground for coverage disputes in these lines of business. It is unsurprising, then, that War Risks coverage has assumed a high profile in English coverage litigation in 2025.

War Risks cover triggered in the Russian aviation litigation

In our 2025 Annual Policyholder Review, we discussed the "Russian aviation litigation", which considered six claims brought by airline lessors whose aircraft were stranded in Russia following its invasion of Ukraine. The claims were scheduled for a 12-week trial in autumn 2024 and dealt with a number of complex insurance issues, both specific to the aviation insurance market and of wider market importance.

The Commercial Court decision

In June 2025, the Commercial Court handed down its judgment in the initial "mega trial" of claims by airline lessors against the insurers of their hull All Risks and hull War Risks policies. Our detailed review of the Commercial Court decision, published immediately after it was handed down, can be found at page 141 of this Annual Policyholder Review.

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The decision covered a wide range of issues, including (1) whether the Contingent or Possessed covers under the aircraft hull policies had been triggered, (2) whether the lessors had been permanently deprived of the aircraft and engines stuck in Russia, and (3) whether US or EU sanctions prohibited insurers from paying out under the policy. All these issues are considered in our earlier article.

The fourth key battleground in the case was the critical question of whether the loss of the aircraft and engines fell within the scope of the All Risks cover (which had an exclusion for war risks ("Exclusion AVN48B")) or the War Risks cover (a separate section of the policy designed to provide cover for these excluded losses). The question was important to lessors, as they could seek to recover their losses in full under the All Risks policy, whereas the War Risks cover was sub-limited to a muchlower amount.

For AerCap (the aircraft lessor with the largest claim), the outcome made a difference between receiving indemnity for its full losses, $2.051 billion at the time of trial, or losses up to the War Risks sub-limit of $1.2 billion. For insurers, the decision was even more critical, as the War Risks and All Risks sections of the policies were underwritten by different panels of insurers (so the decision had the potential to determine whether they were liable under the policies at all).

Did the peril fall within the All Risks or War Risks section of the policies?

When considering which cover the losses fell within, the debate focused on the construction of two specific perils set out in Exclusion AVN48B of the All Risks policy:

"Any act of one or more persons, whether or not agents of a sovereign power, for political or terrorist purposes and whether the loss or damage resulting therefrom is accidental or intentional"
(the "Political Peril")

"Confiscation, nationalisation, seizure, restraint, detention, appropriation, requisition for title or use by or under the order of any Government …"
(the "Government Perils")

If either exclusion was engaged, it was common ground that the All Risks policy would not respond, but the War Risks policy would.

The court considered that the Political Peril was not concerned with acts of the government itself but with acts of individuals relating to a government stance. This was clear from the reference to acts of "one or more persons", which could be juxtaposed with the reference to "any Government" in the Government Perils exclusion. Construing the Political Peril as a whole, the court concluded that the proper interpretation was as follows:

"What is contemplated as covered by the clause as a whole is acts which are in some sense adverse to the government of the place where they happen… I do not think that this adversity needs to be confined to where the ultimate aim pursued is the change of the government or its policy, but can embrace a case in which support for a government or government policy is pursued by unauthorised (for example violent) means."

In view of this interpretation, the clause was not triggered on the facts, since the acts leading to the loss were acts of the government itself.

In relation to the construction of the Government Perils clause, War Risks insurers argued that there must be a formal order or directive from the government for the Government Perils to apply. The court disagreed and concluded that this was not necessary, noting the inclusion of terms such as "seizure" and "detention" within the clause. These terms suggested that the trigger would be based on the practicalities of what had happened, and that there were no strict formal requirements for legislation to be in place underpinning these acts.

Although the court spent time considering the construction of the exclusion, this analysis was somewhat moot as the court found that the 10 March 2022 Russian government Order GR 311, which prohibited the export of foreign aircraft from the country, was, in any case, a relevant action for the purpose of the Government Perils. Order GR 311 was clearly a formal order from the government and amounted to a "restraint" or "detention" for the purposes of the Government Perils.

Having considered the interpretation of Exclusion AVN48B and established that the Government Perils had occurred, the court then had to consider causation. If the loss was proximately caused (solely or concurrently) by Order GR 311, then the Government Perils exclusion would be engaged, and War Risks insurers would be liable.

However, War Risks insurers pushed back on this position, arguing that (despite Order GR 311) the proximate cause of the loss was not the acts of the Russian government, but instead a commercial decision by the Russian airlines not to return the aircraft that were on lease. The court considered a wide range of evidence on this issue, including expert evidence on Russian politics, public policy and economics, as well as on the Russian civil aviation sector. In addition, factual evidence was adduced from various individuals at the aircraft lessors, in the absence of evidence being available from the Russian airlines themselves. The court also considered publicly available information.

Clearly, the evidentiary landscape was unusual in circumstances where the court was being asked to consider the proximate cause of the loss of the aircraft without evidence from the decision-makers in Russia. Similar challenges may arise in other war-related coverage disputes (for example, regarding the application of war exclusions under a cyber policy), given the inherent challenges with accessing information and documents in such circumstances. The range of evidence considered in the Russian aviation litigation and the court's view of this evidence will be instructive for those engaging in similar coverage disputes.

After considering the evidence in detail, the court concluded that Order GR 311 was the sole proximate cause of the loss. The court found, on the evidence, that prior to Order GR 311, there was no clear decision by any of the Russian airlines to keep the aircraft permanently, such that the lessors were permanently deprived of the aircraft. In contrast, Order GR 311 represented an official and legally binding prohibition on the return of aircraft to lessors. Accordingly, the Government Perils exclusion applied, and the War Risks insurers were liable to indemnify the lessors for their losses.

The lessors were, therefore, in each case, limited to an indemnity for the lower sub-limit of liability provided for in the War Risks policy, rather than a full indemnity for their losses.

What next?

While the Commercial Court judgment has now been handed down in the lessor policy claims, it is clear that a significant volume of related litigation remains in play, and we can expect further chapters in the Russian aviation litigation saga well into 2026.

In particular, there are likely to be hearings or decisions relating to the following:

- **Appeals** – Perhaps unsurprisingly, given their significant exposure following the judgment ($1.035 billion plus costs and interest in AerCap's claim alone), War Risks insurers have sought permission to appeal the Commercial Court decision. The Commercial Court denied the insurers permission to appeal at a consequentials hearing held in September 2025; however, War Risks insurers have now filed an application with the Court of Appeal, the outcome of which is awaited.

  Interestingly, while insurers sought to appeal the peril and causation decisions when applying to the Commercial Court, these grounds are not maintained in their application to the Court of Appeal. Instead, insurers have only sought permission to appeal issues around (1) the construction of the contingent cover, (2) whether the aircraft were a total loss, and (3) the treatment of financial recoveries. There is therefore no prospect of shifting the liability back to All Risks insurers (which could result in an increased recovery for the lessors), and the only potential outcome in the Court of Appeal would be a reduction or elimination of War Risks insurers' liability.

- **Interest** – In addition, some of the War Risks insurers have sought permission to appeal the Commercial Court's decision on interest, challenging the date on which interest is calculated as starting to accrue and the applicable rate of interest. The Commercial Court has significant discretion in making an award for interest, and it is an unusual step for parties to appeal such a decision. However, in this case, the interest award was significant.

  In AerCap's case, the Commercial Court held that simple interest should be awarded at the US prime rate (given the judgment was payable in US dollars) from the date AerCap commenced its claim (ie, 9 June 2022). US prime fluctuated substantially during the period, reaching 8.5% at its peak. Accordingly, AerCap is due to receive a sizeable interest payment of $240 million under the Commercial Court decision.

- **Operator Policy claims** – With judgment in the Lessor Policy claims handed down, attention will turn to the Operator Policy claims, where lessors are claiming against the reinsurers of the policies held by the Russian airline operators. Lessors are able to bring these claims directly against the Operator Policy reinsurers by way of (1) being noted as "Additional Insureds" under the underlying policies, and (2) cut-through clauses in the reinsurance policies.

  The Operator Policy claims remain relevant because lessors were only partially indemnified for their losses under the War Risks contingent cover, so they may wish to pursue their uninsured losses under the Operator Policies. The Operator Policies are governed by Russian law, and there is therefore no guarantee that the coverage position under the Operator Policies will be the same as that under the Lessor Policies. In addition, certain War Risks insurers found liable under the Lessor Policies have issued contribution claims against the Operator Policy reinsurers.

- **Costs** – The issue of costs was determined in principle at a consequentials hearing in September 2025, with AerCap being awarded 65% of its costs and All Risks insurers 90% (to be borne 65% by War Risks insurers, and 35% by AerCap). The parties will now move to the assessment process, which could take some time. Given the size of the costs incurred, with AerCap's total costs estimated at £81 million, the court has taken the unusual step of extending the timeframe by which detailed assessment of costs must commence from the usual three months to around six months.

A further 'WIN WIN' for a policyholder claiming under a War and Political Risks policy

This year saw an important Court of Appeal decision in *Delos Shipholding SA & Ors v Allianz Global Corporate and Specialty SE & Ors* ("WIN WIN") [2025] EWCA Civ 1019, which considered the application of an exclusion in a marine War Risks insurance policy.

The insurance claim revolved around the detention of the vessel WIN WIN on 17 February 2019, after it anchored just inside Indonesian territorial waters without permission. The anchorage, near Singapore, had been used by hundreds of vessels for many years. Before February 2019, there had been no known instances of vessels being detained by Indonesian authorities simply for anchoring there. Accordingly, the detention represented a change of practice by the Indonesian authorities; however, their action was in line with applicable law, as the WIN WIN did not have the clearances needed to anchor where it did.

The policy provided War and Political Risks cover for a fleet of vessels, which included the WIN WIN. Under the terms of the policy, the vessel would be treated as a constructive total loss if it was detained for six months or more. Therefore, the claimant sent notices of abandonment to insurers on around 19 August 2019. Insurers declined the notices.

The policy contained a number of exclusions, and one of the key issues for the appeal revolved around the application and interpretation of the following clause:

"This insurance does not cover any loss, damage or expense caused by, resulting from, or incurred as a consequence of: […]

"(e) Arrest, restraint or detainment under customs or quarantine regulations and similar arrests, restraints or detainments not arising from actual or impending hostilities;" ("American Exclusion 1(e)").

In the first instance decision (*Delos Shipholding SA v Allianz Global Corporate and Specialty SE* [2024] EWHC 719 (Comm)), the court concluded that the exclusion would not apply. In part, this decision was based upon a comparison between the American Exclusion 1(e) and a similar exclusion, clause 4.1.5 of the 'English Institute War and Strikes Clauses (1983)' ("English Institute Clause 4.15"). Insurers appealed this decision.

In considering the issue again, the Court of Appeal rejected the High Court's analysis and determined that there was no reason to suppose the parties wanted the American Exclusion 1(e) to have the same effect as English Institute Clause 4.1.5. The clauses had different wordings and different drafting histories. Instead, the Court of Appeal confirmed that each clause should be interpreted on its own terms and that the usual principles of construction would apply. Namely, they confirmed that the clause should be interpreted objectively, taking into account the relevant commercial background.

In considering the clause afresh, the crux of the issue facing the Court of Appeal was around the interpretation of the word "similar" where the exclusion referred to "similar arrests, restraints or detainments". The court had to decide whether this could be interpreted broadly enough to include the circumstances surrounding the arrest of the WIN WIN. The Court of Appeal concluded that it could not. In forming its view, the Court of Appeal stated: "As all arrests are similar in that they place a vessel under the control of the arresting state, it is clear that the similarity with which the clause is concerned is whether the regulation under which the arrest is effected is similar to, or has a similar purpose to, a customs or quarantine regulation."

The Court of Appeal found that "customs regulations" referred to laws regulating the import of goods into the land territory of a state and that "quarantine regulations" referred to laws for the protection of health. Having determined the scope of these regulations, the Court of Appeal considered it "straightforward" that the detention of the WIN WIN for anchoring without permission had little similarity to either. Accordingly, the exclusion did not apply in the circumstances, and the policyholder was able to recover under its war and political risks policy.

The Court of Appeal's decision may prove helpful in future to policyholders seeking to rely on a narrow construction of policy exclusions, both in the war risks context and more generally.

Tariffs, tariffs and more tariffs

One of the watchwords for Political Risk in 2025 has to be "tariffs". The impact of volatile political trade decisions in 2025 has been significant, particularly for businesses with global supply chains.

Most political risk policies deal with political risks affecting tangible property (such as expropriation, political violence and forced abandonment) or currency inconvertibility. For this reason, while wordings should always be checked and policy scopes vary, the majority of political risk policies are unlikely to respond directly to the commercial impact caused by changes to tariffs. Yet, the impact of the numerous global increases in tariffs has been broad and far-reaching, stretching its fingers into many other lines of insurance. We consider three key issues below.

Are policy limits sufficient?

Depending on a policyholder's sector and exposure to international supply chains, tariffs could have a significant impact on the size of potential losses. For the construction sector and property policies in particular, policyholders should be mindful that the costs of goods within global supply chains may have increased significantly over the course of 2025 because of additional import and export tariffs. Accordingly, the cost of replacing or repairing damaged property may have risen substantially since policy inception, placing some policyholders in the unenviable position of having policy limits that are no longer sufficient.

It is important that policyholders liaise with their brokers about economic changes to the risk insured and consider whether mid-term changes may be required to ensure limits are appropriate for the risks they are looking to mitigate. For those managing renewals, a fresh assessment of likely losses is also critical to ensure insurers have received a fair presentation of the risk. If the risk has not been properly presented, policyholders may find themselves facing a proportionate reduction in any payment made for a claim, in response to their breach of the duty of fair presentation.

Could directors and officers face claims?

In view of highly dynamic pricing within global supply chains, optimising business planning to minimise cost has become increasingly important. Issues such as the origin of products, the location of factories and the flow of distribution around the global market are increasingly important decisions for businesses. There may be significant costs associated with such decisions, both positive (implementing changes to global supply chains) and passive (maintaining the status quo, particularly if this is significantly more expensive than viable alternatives). The uncertainty about how long the present high-tariff environment is likely to last makes decisions around investment and change highly challenging for directors and officers. The price of getting it wrong may not only impact the business's bottom line but also lead to personal claims or shareholder claims as these decisions come under increased scrutiny. For that reason, we may yet see directors' and officers' insurance claims increasing as a result of the high tariff environment.

Will trade credit policies assist?

Traditional trade credit policies can be purchased to cover the risk of a counterparty defaulting between one party completing their contractual obligations (eg making a pre-payment) and the other party completing theirs (eg supplying purchased goods). These traditional trade credit policies are unlikely to respond directly to the primary impact of tariffs being imposed, ie, any change in price or reduction in profit margin. However, if an increase in tariffs has a more significant impact on a counterparty's solvency, then trade credit policies could prove a critical port of call for companies impacted by counterparty insolvencies, thereby providing a degree of indirect protection from the risks of a turbulent global trade environment.

A real-world example of this might be seen in the recent insolvency of the US car parts manufacturer First Brands, which the press has linked with a number of financial challenges, including changes in tariff policies. The company is reported to have accumulated nearly $6 billion in traditional debt and billions more in off-balance sheet financing. Its collapse will undoubtedly cause reverberations in the global trade credit markets, with echoes of the fallout from the Greensill Capital insolvency in 2021.

Concluding thoughts

In increasingly turbulent geopolitical times, the English courts' ongoing assessment of coverage under War Risks and Political Risks policies is essential reading for any organisation seeking to mitigate its exposure to global risks.

The decisions also have important potential read-across to other lines of business, in particular cyber, which is increasingly named as the risk of greatest concern to risk managers across all sectors. Against a backdrop of rapid growth in cyber insurance penetration, combined with an exponential increase in ransomware attacks, the market has recently taken steps to cut back coverage for state-sponsored cyber-attacks, which are generally regarded as uninsurable. A plethora of exclusionary wordings abound in the market, none of which have yet been tested in the English courts. In the event of a systemic cyber-attack alleged by insurers to be state-sponsored, the latest War Risks decisions will form an important starting point when seeking to construe the full range of cyber war exclusions now in play in the London market.

Meet the team

Aaron Le Marquer

Head of Policyholder Disputes

With over twenty years' experience in insurance law on both the policyholder and insurer side, Aaron is a leading advocate for policyholders in diverse sectors including financial services, hospitality and retail, energy and construction, and sports and entertainment. Known for leading a series of high-profile Covid-19 business interruption test case litigation in recent years, he is experienced in all commercial lines of business, including business interruption, directors and officers, professional liability, cyber, environmental risks, and construction. Aaron spent eight years practising in the Asia Pacific region and is particularly experienced at resolving international and reinsurance disputes, often via arbitration.

Aaron has been ranked as a leading insurance practitioner in the Legal 500, Chambers, and Lexology Index (formerly Who's Who Legal) since 2013. He was named as The Times Lawyer of the Week in 2023, and listed in The Lawyer Hot 100 in 2025.

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> **Aaron Le Marquer is genuinely outstanding. … A standout name in the market."**
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> *Legal 500 2026*

Chloe Derrick

Partner

Chloe specialises in insurance coverage and professional negligence. Having previously acted for insurers, she now acts exclusively for businesses and individuals in high-value disputes against the insurance market and the financial and professional services sectors. Chloe has successfully recovered significant funds for clients across insurance lines, and has represented clients in disputes spanning a number of jurisdictions (including the United States, Canada, South Africa, Mauritius, Gibraltar, and countries across the Channel Islands and Europe).

Before joining Stewarts, Chloe advised Lloyd's and London market insurers on their high-profile market loss exposures and drafted policy wordings for existing and new insurance products. Chloe is ranked by both Chambers and Legal 500.

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> **Chloe is wonderful to work with. She has deep expertise in her specialism and is very personable and conscientious. She is able to explain things in a clear way to non-lawyers and lawyers alike."**
>
> *Chambers 2026*

James Breese

Partner

James is ranked by Chambers and Legal 500 as an 'Up and Coming' and 'Next Generation Partner'. He has represented policyholders in the UK and internationally for eight years, having previously acted on the insurer-side. James uses his knowledge of both sides of the market to strategically advance policyholders' complex insurance disputes.

James' clients range from listed companies, private equity houses, asset managers and multinational enterprises, to high-net-worth individuals and directors of companies. He is regularly instructed to resolve coverage disputes under W&I, D&O, cyber, and investment management insurance policies.

Since 2020, James has also represented policyholders in the leading Covid-19 insurance litigation in the Commercial Court and Court of Appeal. James is widely regarded for his strong business interruption insurance expertise having recovered tens of millions from insurers, including for distressed or insolvent businesses.

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> **James is easy to work with, pragmatic and clear, and he produces great results."**
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Policyholder Disputes at Stewarts

We act exclusively for policyholders in high-value, complex insurance disputes.

Our market-leading Policyholder Disputes team represents businesses in insurance coverage disputes, including cyber, financial and professional risks, construction, business interruption and property losses.

We only represent policyholders in disputes against insurers. Our team has experience acting for local and multinational clients in all sectors, including financial services, entertainment, property, construction, hospitality, retail, logistics, manufacturing, energy and sports.

We do not act for London market insurers, and so are free to pursue claims against the insurance market.

We are one of the largest dedicated policyholder teams in the UK market, and all three of our partners are ranked as leading practitioners in the main legal directories. Our team's cases have been listed in The Lawyer's Top 20 Cases and Top 10 Appeals for the last four years consecutively.

Stewarts is a litigation powerhouse, and we leverage the firm's broader resources where subject matter experts are required, including in tax, insolvency and asset recovery, securities, fraud and employment law. Our combined resources in these areas provide a unique one-stop-shop for insured companies and their directors and officers.

We regularly act in English litigation and arbitration for clients based in overseas jurisdictions with insurance placed through the London market. Our team is experienced in handling disputes with a broad international reach with a particular focus on the US, and Middle East and Asia Pacific regions.

Our firm has unrivalled experience in putting together innovative costs arrangements to help with insurance disputes. The use of third-party funding, after-the-event insurance and risk-sharing fee agreements enables our clients to manage risk and litigate from a position of financial strength.

> **Stewarts' insurance team is one of the leading policyholder teams in the country."**
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> **Stewarts know how to get the best possible results for their clients. The team are extremely knowledgeable and we have complete trust in their ability to handle the most complex insurance matters."**
>
> *Chambers 2026*

About Stewarts

Stewarts is the UK's largest disputes-only law firm acting in some of the most high-profile and ground-breaking cases.

Specialist expertise

We are widely recognised for our innovative and cutting-edge approach to high-value and complex litigation. Clients instruct us when the stakes are high and where genuine disputes experts are needed.

Our strength and depth rivals that of many disputes teams across the elite UK, US and international firms.

Conflict-free status

As a disputes-only firm, we are conflict-free and uniquely placed to advise where other law firms may be conflicted.

Client service

We get to the core of the dispute at hand as well as our clients' underlying commercial and strategic objectives so that our advice is tailored and holistic.

Our lawyers handle a small number of cases to ensure that they give our clients the care and responsiveness they need to go against the most well-resourced opponents.

Reputation

Our reputation is confirmed by our rankings in the leading legal directories as well as The Times Best Law Firms. We are consistently recognised as a "truly client-focused outfit whose calibre and experience is second to none".

International reach

The great majority of our work is international. As an independent law firm, we are free to work with our clients' existing advisers and can also draw on our strategic alliances with leading international law firms. This enables us to work in a global counsel role to coordinate complex multi-jurisdictional

Depth

We have over 200 lawyers, including 90 partners, and 480 staff across our London and Leeds offices.

Clients

We act for corporates and individuals in high-value and complex disputes in the UK and around the globe.

Practices

We have 15 practice areas across Commercial Disputes, Private Client Disputes and Injury Disputes.

Rankings

All of our practices are highly ranked in the Chambers and Legal 500 guides

Stewarts would like to thank the following for their contributions to The Policyholder Review 2026:

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- Hemsley Wynne Furlonge Partners Limited
- Lockton
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- Simon Manuel

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